

Railroad Retirement Spouse and Widow(er) Annuities and Public Service Pensions

Railroad Retirement Act spouse and widow(er) annuities (including divorced spouse, surviving divorced spouse and remarried widow(er) annuities) are subject to dual benefit reductions when social security benefits or dual railroad retirement annuities are also payable; and, such railroad retirement benefits may be subject to reduction when certain public service pension payments are also due a spouse or widow(er).

Since the payment of a railroad retirement spouse or widow(er) annuity can be affected by entitlement to certain other government benefits, such dual entitlement, if not reported to the Railroad Retirement Board, can result in benefit overpayments which have to be repaid, sometimes with interest and penalties. The following questions and answers describe how payments are adjusted by the Railroad Retirement Board for spouse and widow(er) annuitants entitled to public service pensions.

1. What is considered a public service pension?

A public service pension is any periodic benefit payment, as well as lump-sum payments made in lieu of periodic pension payments, based on an individual's own employment with a Federal, State, or local government unit. Some examples are pensions paid to teachers, police officers, and civil service personnel on the basis of age or disability. Full salary benefits paid to a retired or resigned judge under the Federal judiciary retirement system are also considered public service pensions.

However, the public service pension reduction law does not apply to a railroad retirement spouse or widow(er) annuity if the government job that the public pension is based on was covered under the Social Security Act on the last day of public employment.

In addition, most military service pensions and payments from the Department of Veterans Affairs will not cause a reduction; and a pension paid by a foreign government or an interstate instrumentality also has no effect on a spouse or widow(er) annuity.

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2. What is the background of the public service reduction in spouse and widow(er) annuities and how does it affect such payments?

The public service pension reduction in railroad retirement spouse and widow(er) benefits was effected by 1977 social security legislation which also applied to the tier I portion of railroad retirement spouse and widow(er) annuities. Since a social security spouse benefit is reduced if the spouse is also entitled to a social security benefit based on her or his own earnings, it was considered equitable that a social security spouse benefit also be reduced for a public service pension based on the spouse's own nonsocial security earnings.

The tier I portion of a railroad retirement annuity is based on railroad retirement and any nonrailroad social security credits acquired by an employee, computed under social security formulas, and approximates what social security would pay if railroad work were covered by that system. Tier I benefits are, therefore, reduced in the same manner as social security benefits when certain other benefits are also payable.

3. How is the public service pension reduction applied to railroad retirement spouse or widow(er)'s annuities?

For spouse and widow(er)s subject to the public service pension reduction, the tier I reduction is, under current law, equal to 2/3 of the amount of the public pension. The amount of the public service pension is the current gross amount, **before** any deductions for income tax withholding, Medicare premiums, health insurance or other benefits.

4. Does the public service pension reduction law apply to all railroad retirement spouse or widow(er) annuities?

The public pension reduction does not apply to a spouse or widow(er) who filed for and became entitled to her or his railroad retirement annuity before December 1977, or to a spouse or widow(er) whose public pension is **not** based on her or his own earnings.

5. Are there any other provisions that would exempt railroad retirement spouse or widow(er) annuitants from the public pension offsets?

Railroad retirement spouse and widow(er) annuitants may also be exempt from the public pension reduction if **both** of two requirements are met.

The first requirement is that they began to receive or were **eligible** to receive their Federal, State or local government pension before December 1982. This means they must have met the age and service requirements for their pensions before December 1982, even though they did not apply for their pensions before then.

The second is that they meet all requirements for spouse and widow(er) benefits in effect under social security law in January 1977. At that time, for example, a divorced woman's marriage must have lasted at least 20 years, rather than 10 years as required today. Also, a husband or widower must have received at least one-half support from his wife.

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Even if spouses and widow(er)s do not meet these criteria, they still may be exempt from the reduction beginning with railroad retirement benefits payable December 1982 if they received or were eligible to receive their Federal, State, or local government pensions before July 1, 1983; **and** they were receiving at least one-half support from their spouses at the time their spouses retired or died. This provision applies to men and women.

6. Where can more specific information on how these pension offsets affect railroad retirement benefits be obtained?

Individuals who may be affected should contact the nearest field office of the Railroad Retirement Board for information as to how their public service pensions could affect their railroad retirement benefits.

For the phone number or address of the nearest Board field office, individuals should look in the telephone directory under "United States Government," or check with their local union official, rail employer, post office, or Federal Information Center. They may also check the Board's Web site at www.rrb.gov. Most Board field offices are open to the public from 9:00 a.m. to 3:30 p.m., Monday through Friday.

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